

REMARKS

I. Preliminary remarks

Claims 89, 91-96, and 101-106 are pending. Claims 97-100 and 107-109 are withdrawn.

Claim 88 is canceled herein. Claims 91-96, 98, 99 and 102 are amended herein to depend from claim 89. Claim 101 is amended to recite "the polypeptide encoded by SEQ ID NO: 1...." Accordingly, no new matter has been added to any of the amendments to claims 91-96, 98, 99 and 102.

Applicants reserve the right to pursue the subject matter of any claim (whether original, amended or canceled) in continuing applications.

II. Allowable Subject Matter

Applicants thank the Examiner for acknowledging the allowability of claim 89. Claims 91-96, 98, 99 and 102 as amended herein depend from claim 89. Thus, these claims are also directed to allowable subject matter.

III. The rejection of claims 88, 91-96 and 101-106 under 35 U.S.C. § 112, first paragraph (enablement), is moot.

The Examiner rejected claims 88, 91-96 and 101-106 as allegedly failing to be enabled by the specification.

The rejections of claims 88, 101 and 104 are moot in view of the amendment to or cancellation of these claims. The amendment to or cancellation of these claims is made solely to expedite prosecution of the application and not for any reasons pertaining to patentability. Claims 91-96 and 102 now depend from claim 89, which the Examiner has indicated on page 3 of the office action as being enabled by the specification as filed.

In view of the foregoing, Applicants respectfully request that the rejections of claims 91-96, 101, 102 and 103-106 (claim 88 being canceled) under 35 U.S.C. § 112, first paragraph (enablement) be withdrawn.

IV. The rejection of claims 101 and 103-106 under 35 U.S.C. § 102(e) is moot.

The Examiner rejected claims 101 and 103-106 under 35 U.S.C. § 102(e) as allegedly being anticipated by Queen et al. (U.S. Patent No. 6,180,370). The rejection is moot in view of the amendment to claim 101 made herein. Applicants note that the original language of this claim describes the natural antibody-antigen interaction; in general antibodies of a desired affinity bind to a portion of, or an epitope of, a protein, rather than contacting and binding the entirety of a protein. Nevertheless, solely in order to expedite prosecution, Applicants have replaced this language with a recitation of binding to “the polypeptide encoded by SEQ ID NO: 1....” The office action stated that such an amendment would obviate the rejection. The amendment to claim 101 is made solely to expedite prosecution of the application and not for reasons pertaining to patentability.

In view of the foregoing, Applicants respectfully request that the rejection of claims 101 and 103-106 under 35 U.S.C. § 102(e) be withdrawn.

V. Obviousness-type double-patenting rejection.

Claims 88, 89 and 91-100 were rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-8 of U.S. Patent No. 6,804,453.

Applicants submit a terminal disclaimer herewith to obviate the rejection.

VI. Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

Electronic signature: /Jeanne M. Brashear/56,301
Jeanne M. Brashear
Registration No.: 56,301
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Agent for Applicants